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APARTMENT 1  
MANKATO, MN 56001

COPY MAILED

JAN 05 2005

OFFICE OF PETITIONS

In re Application of :  
Melvin Harper et al :  
Application No. 10/707,268 : ON PETITION  
Filed: December 2, 2003 :  
For: RISER FOR NARROW CARVING SKIS :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 24, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 25, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set

forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (2) above.

As to item (1), petitioner has failed to pay the required statutory basic filing fee and surcharge under 37 CFR 1.53(e) listed on the "Notice to File Missing Parts of Nonprovisional Application." The current filing fee is \$395.00, and the current surcharge is \$65.00.

As to item (2), the fee for a petition to revive under the unintentional standard of 37 CFR 1.137(b) for a small entity is \$750.00. With the present petition, petitioner has only submitted \$685.00. Therefore, an additional \$65.00 is required.

Accordingly, a consideration on the merits of the present petition cannot be made until the \$525.00 fee deficiency is submitted to the Office.

The petition lacks the signature of the second inventor. 37 CFR 1.33(b) states that amendments and others, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) An assignee as provided for under § 3.71(b); or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71.

Therefore, the Change of Correspondence Address filed December 13, 2004 has not been entered and made of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS  
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By fax: (703) 872-9306  
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at  
(571) 272-3220.

*Wan Laymon*  
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Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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